

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BINTA BOIRO,

Plaintiff(s),

-against-

RITE AID CORPORATION and RITE AID
OF NEW YORK, INC.,

Defendant(s).
-----X

07 Civ 5651
Judge Lynch

**ANSWER AND
JURY DEMAND**

Defendants, RITE AID CORPORATION and RITE AID OF NEW YORK, INC., by way of their attorneys, RAVEN & KOLBE, LLP, as and for their Answer to plaintiff's Complaint, states as follows:

AS TO INTRODUCTION

1. Answering defendants deny all of the allegations contained in paragraph "1" of plaintiff's Complaint.

AS TO JURISDICTION AND VENUE

2. Answering defendants deny all of the allegations contained in paragraph "2" of plaintiff's Complaint and beg leave to refer all questions of law and fact to the trial of the action.

3. Answering defendants deny all of the allegations contained in paragraph "3" of plaintiff's Complaint and beg leave to refer all questions of law and fact to the trial of the action.

4. Answering defendants deny all of the allegations contained in paragraph "4" of plaintiff's Complaint and beg leave to refer all questions of law and fact to the trial of the action.

5. Answering defendants deny all of the allegations contained in paragraph "5" of plaintiff's Complaint and beg leave to refer all questions of law and fact to the trial of the action.

AS TO THE PARTIES

6. Answering defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph "6" of plaintiff's Complaint.

7. Answering defendants admit the allegations contained in paragraph "7" of plaintiff's Complaint.

8. Answering defendants admit the allegations contained in paragraph "8" of plaintiff's Complaint.

9. Answering defendants admit the allegations contained in paragraph "9" of plaintiff's Complaint.

AS TO THE FACTUAL ALLEGATIONS

10. Answering defendants admit the allegations contained in paragraph "10" of plaintiff's Complaint.

11. Answering defendants deny all of the allegations contained in paragraph "11" of plaintiff's Complaint.

12. Answering defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph "12" of plaintiff's Complaint.

13. Answering defendants admit the allegations contained in paragraph "13" of plaintiff's Complaint.

14. Answering defendants deny all of the allegations contained in paragraph "14" of plaintiff's Complaint.

15. Answering defendants deny all of the allegations contained in paragraph "15" of plaintiff's Complaint.

AS TO PLAINTIFF'S FIRST CAUSE OF ACTION

16. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "15" of the Complaint as if same were more fully set forth at length herein.

17. Answering defendants deny all of the allegations contained in paragraph "17" of plaintiff's Complaint.

18. Answering defendants deny all of the allegations contained in paragraph "18" of plaintiff's Complaint.

19. Answering defendants deny all of the allegations contained in paragraph "19" of plaintiff's Complaint.

20. Answering defendants deny all of the allegations contained in paragraph "20" of plaintiff's Complaint.

21. Answering defendants deny all of the allegations contained in paragraph "21" of plaintiff's Complaint.

AS TO PLAINTIFF'S SECOND CAUSE OF ACTION

22. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "21" of the Complaint as if same were more fully set forth at length herein.

23. Answering defendants admit the allegations contained in paragraph "23" of plaintiff's Complaint.

24. Answering defendants admit the allegations contained in paragraph "24" of plaintiff's Complaint.

25. Answering defendants deny all of the allegations contained in paragraph "25" of plaintiff's Complaint.

26. Answering defendants deny all of the allegations contained in paragraph "26" of plaintiff's Complaint.

27. Answering defendants deny all of the allegations contained in paragraph "27" of plaintiff's Complaint.

28. Answering defendants deny all of the allegations contained in paragraph "28" of plaintiff's Complaint.

AS TO PLAINTIFF'S THIRD CAUSE OF ACTION

29. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "28" of the Complaint as if same were more fully set forth at length herein.

30. Answering defendants admit the allegations contained in paragraph "30" of plaintiff's Complaint.

31. Answering defendants admit the allegations contained in paragraph "31" of plaintiff's Complaint.

32. Answering defendants deny all of the allegations contained in paragraph "32" of

plaintiff's Complaint.

33. Answering defendants deny all of the allegations contained in paragraph "33" of plaintiff's Complaint.

AS TO PLAINTIFF'S FOURTH CAUSE OF ACTION

34. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "33" of the Complaint as if same were more fully set forth at length herein.

35. Answering defendants deny all of the allegations contained in paragraph "35" of plaintiff's Complaint.

36. *Sic.*

37. Answering defendants deny all of the allegations contained in paragraph "37" of plaintiff's Complaint.

38. Answering defendants deny all of the allegations contained in paragraph "38" of plaintiff's Complaint.

39. Answering defendants deny all of the allegations contained in paragraph "39" of plaintiff's Complaint.

40. Answering defendants deny all of the allegations contained in paragraph "40" of plaintiff's Complaint.

AS TO PLAINTIFF'S FIFTH CAUSE OF ACTION

41. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "40" of the Complaint as if same were more fully set forth at length herein.

42. Answering defendants admit the allegations contained in paragraph "42" of plaintiff's Complaint.

43. Answering defendants admit the allegations contained in paragraph "43" of plaintiff's Complaint.

44. Answering defendants deny all of the allegations contained in paragraph "44" of plaintiff's Complaint.

45. Answering defendants deny all of the allegations contained in paragraph "45" of

plaintiff's Complaint.

46. Answering defendants deny all of the allegations contained in paragraph "46" of plaintiff's Complaint.

47. Answering defendants deny all of the allegations contained in paragraph "47" of plaintiff's Complaint.

AS TO PLAINTIFF'S SIXTH CAUSE OF ACTION

48. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "47" of the Complaint as if same were more fully set forth at length herein.

49. Answering defendants admit the allegations contained in paragraph "49" of plaintiff's Complaint.

50. Answering defendants admit the allegations contained in paragraph "50" of plaintiff's Complaint.

51. Answering defendants deny all of the allegations contained in paragraph "51" of plaintiff's Complaint.

52. Answering defendants deny all of the allegations contained in paragraph "52" of plaintiff's Complaint.

AS TO PLAINTIFF'S SEVENTH CAUSE OF ACTION

53. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "52" of the Complaint as if same were more fully set forth at length herein.

54. Answering defendants deny all of the allegations contained in paragraph "54" of plaintiff's Complaint.

55. Answering defendants deny all of the allegations contained in paragraph "55" of plaintiff's Complaint.

56. Answering defendants deny all of the allegations contained in paragraph "56" of plaintiff's Complaint.

57. Answering defendants deny all of the allegations contained in paragraph "57" of plaintiff's Complaint.

58. Answering defendants deny all of the allegations contained in paragraph "58" of plaintiff's Complaint.

AS TO PLAINTIFF'S EIGHTH CAUSE OF ACTION

59. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "58" of the Complaint as if same were more fully set forth at length herein.

60. Answering defendants admit the allegations contained in paragraph "60" of plaintiff's Complaint.

61. Answering defendants admit the allegations contained in paragraph "61" of plaintiff's Complaint.

62. Answering defendants deny all of the allegations contained in paragraph "62" of plaintiff's Complaint.

63. Answering defendants deny all of the allegations contained in paragraph "63" of plaintiff's Complaint.

64. Answering defendants deny all of the allegations contained in paragraph "64" of plaintiff's Complaint.

65. Answering defendants deny all of the allegations contained in paragraph "65" of plaintiff's Complaint.

AS TO PLAINTIFF'S NINTH CAUSE OF ACTION

66. Answering defendants repeat, reiterate and reallege each and every answer to the allegations set forth in paragraphs "1" through "65" of the Complaint as if same were more fully set forth at length herein.

67. Answering defendants admit the allegations contained in paragraph "67" of plaintiff's Complaint.

68. Answering defendants admit the allegations contained in paragraph "68" of plaintiff's Complaint.

69. Answering defendants deny all of the allegations contained in paragraph "69" of plaintiff's Complaint.

70. Answering defendants deny all of the allegations contained in paragraph "70" of

plaintiff's Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from a collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

If any damages are recoverable against this said answering defendant, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.


WHEREFORE, answering defendants request that the Verified Complaint against them be dismissed with costs and such further relief as this Court may deem just and proper.

Dated: New York, New York
June 29, 2007

Yours, etc.

RAVEN & KOLBE, LLP

By:



Keith A. Raven (KR-8086)

Attorneys for Defendants

126 East 56th Street, Suite 202

New York, New York 10022

Tel. (212) 759-7466

Fax (212) 759-0166

Our File No.: 904-031-01

TO:
Robert J. Barsch, Esq.
RB 1612
Attorney for Plaintiff
60 East 42nd Street, Suite 2501
New York, New York 10017
Tel. (212) 986-2251

AFFIDAVIT OF SERVICE BY MAIL


STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Nelida M. Lamboy, being duly sworn, deposes and says:

1. That she is an employee in the office of RAVEN & KOLBE, LLP, attorneys herein.
2. That deponent is not a party to the action or proceeding, is over eighteen (18) years of age, and resides in Glendale, New York.
3. That on July 3, 2007 she served the within copy of the **ANSWER AND JURY DEMAND** upon:

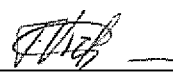
Robert J. Barsch, Esq.
RB 1612
60 East 42nd Street, Suite 2501
New York, New York 10017

by depositing a true copy of the same securely in a postpaid wrapper, in a Post Office Box regularly maintained by the United States Government directed to the above-mentioned parties at their respective address above, that this being the address within the State designated by them for the purpose upon the preceding papers in this action or the place where they then kept an office, between which place, there then was and now is a regular communication by mail.



NELIDA M. LAMBOY

Sworn to before me this
3rd day of July, 2007



Victoria Tasalova
Notary Public, State of New York
No. 01TA6056005
Qualified in Kings County
Commission Expires 3-12-11